IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No.3014 OF 2007

Shivaji @ Shiva Yeshwant Katkar ..Applicant.

Vs.

The State of Maharashtra ..Respondent.

Mr S.M. Oak, with Sagar Joshi, Advocates for the applicant.

Mr S. S. Pednekar, A.P.P for the respondent.

CORAM: V.C. DAGA,J.

DATED: 4.10.2007.

P.C.

1. Heard learned counsel for the applicant and the learned APP for the State.

2. Perused the application and the material available on record.

3. The applicant- original accused arrested in C. R. No. I-286 of 2007 registered with Robale Police Station, Navi Mumbai for the offence under Section 395, 143, 147, 148, 149 read with Section 3, 25 of the Arms Act, and under Section 37 (1) (3) 135 of the Bombay Police Act is seeking bail under Section 439 of the Cr.P.C.

4. According to the prosecution, the name of the applicant has been implicated in the F.I.R. and

during investigation chopper has been recovered from the applicant which was used in commission of the offence. Evidence of eye witness is also on record to connect the present applicant with the alleged offence. The Session Court, while rejecting bail application, has observed that no case is made out for grant of bail. So far as the parity claimed by the applicant with Rajendrasingh, who is enlarged on bail vide order of this Court dated 2.8.2007 passed in Bail Application No. 2246 of 2007 is concerned,the name of the said accused was not reflected in the F.I.R. He was implicated on the basis of the statement made by one of the co-accused. The Admissibility of the said statement was seriously challenged by the said applicant. As such,for want of existence of such circumstances in favour of the applicant parity cannot be applied so as to enlarge the applicant on may not be possible to enlarge him on bail.

5. In the above view of the matter, no case is made out for grant of bail. The reasons recorded by the learned Sessions Judge, Thane in its order dated 27.8.2007 in Bail Application No. 1261 of 2007 still hold good with which I concur.

6. In the result, the present application stands rejected.

7. Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(V.C.DAGA,J)